IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24/01/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION No.13837 OF 1995
AND
W.P.M.P..NO.22164 OF 1995

Plantation Labour Association,
rep. by its Secretary
T. Balakrishnan,
No.85, Jawaharpet,
Coonoor, Nilgiris. .. Petitioner

-Vs-

The Senior Licensing Officer,
Coffee Demonstration Farm
Coffee Board (Owned by Government
of India),
Kozhipalam, Gudalur,
Nilgiris. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus as stated therein.

For Petitioner : Mr. P.K. Rajagopal

For Respondents : Mr. B. Ravindran for
Mr. Chandran Karuppiah

:O R D E R

Heard the learned counsels appearing for the parties. This writ petition has been filed by Plantation Labour Association directing the respondent to regularise the services of four workers, namely Smt. Rajalakshmi, Smt.Davamary, Smt. Manimekalai wi ffect from 1.1.1989 and Selvi Radhika with effect from 1.7.1989.

2. In the Coffee Demonstration Farm Coffee Board, a Government of India undertaking, the respondent had engaged 16 workers including the four persons named above for working in the Farm. Four persons named above, as well as others who had worked fo number of years, had claimed regularisation. Ultimately, on the basis of settlement under Section 12(3) of the Industrial Disputes Act, the respondent had regularised the services of 10 other workers.

Initially one application was filed by Smt. Davamar y which was numbered as R.C.No.740/92 under the Maternity Benefit Act, 1961 claiming benefit and there was a direction to pay the benefits by order dated 9.12.1992. Subsequently, persons named above and another person raised dispute before the Labour In spector, Coonoor under the Tamil Nadu Industrial Establishments (Conferment of Permanent status to the workers) Act, 1981. The Labour Officer, who was the designated authority, enquired into the matter and ultimately by an order dated 6.3.1995 in his Re ference No.Na.Ka.No.4703/92 came to the conclusion that Smt. Rajalakshmi, Smt. Davamary and Smt. Manimekalai have worked continuously for more than 480 days, during the period of January 1987 to December 1988 and Selvi Radhika has worked between June 1987 and June 1989. He observed that first three persons named above should be made permanent with effect from 1.1.1989 and Selvi Radhika should be made permanent with effect from 1.7.1989. However, in spite of order passed by the Labour Ins pector, which had not been challenged, the respondent did not regularise these persons. The concerned workers filed O.S.SR.No.914/95, but the plaint was rejected on the ground of lack of jurisdiction on 27.4.1995 as the matter was coming within a forum of Industrial Dispute.
In the aforesaid background, the writ petition has been filed by the Association espousing the cause of the four affected workers.

3. A counter affidavit has been filed on behalf of the respondent wherein it is indicated that on the basis of settlement, 10 other persons were regularised on the basis of their seniority. While admitting that the present petitioners were has been submitted that these persons were not regularised as they were junior to others and as per the settlement, 10 persons were to be regularised on the basis of seniority. It is further stated that there was no necessity for regularising these wor kers and financial condition of the Farm was not good and these persons can be regularised if further vacancy arise. The respondent has not denied the fact that an order had been passed under the Tamil Nadu Industrial Establishments (Conferment of perman ent status to workmen),Act 1981 nor the validity of such order has been challenged.

4. Having regard to all these aspects and particularly keeping in view the fact that order has been passed under the Tamil Nadu Industrial Establishments (Conferment of permanent status to workmen) Act, which had not been challenged in any m e is no justification for the respondent not to regularise the services of four persons concerned. The direction in the said order is to give permanent status with effect from 1.1.1989. however, the order itself was passed on 6.3.1995.

5. Keeping in view the economic condition of the respondent, I think interest of justice would be served by directing that the four persons should be regularised with effect from 6.3.1995, but no further amount would be paid to them towards s for the past period. However, for all other purpose, that is to say, for the purpose of seniority, increment, etc., four persons must be taken as regular employees of the respondent with effect from 6.3.1995 and on the basis of such direction, the fou r persons shall be paid regular salary with effect from the date of the present order by calculating the increment, etc. The writ petition is accordingly allowed to the extent

indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes
Internet : Yes
dpk

To

The Senior Licensing Officer,
Coffee Demonstration Farm
Coffee Board (Owned by Government
of India),
Kozhipalam, Gudalur,
Nilgiris.